IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION.

CRIMINAL APPEAL NO.1428 OF 2003.

The State of Maharashtra : Appellant.

versus

Vilas Pralahad Khare : Respondent.

Mr.D.S.Mhaispurkar, APP, for the State.

CORAM : D.G.DESHPANDE,J.

DATED : 2nd September 2004.

ORAL ORDER

1. Heard Mr.Mhaispurkar, the learned APP, for the State. This is an appeal filed by the State against acquittal of the accused under Sections 325, 504 of the Indian Penal Code.

2. The incident has taken place while accused and the complainant were travelling from Nashik to Thane in Tapovan Express. It is alleged by the complainant that when he was

trying to keep his suitcase on upper seat, it accidently hit the accused that resulting in quarrel and the accused gave fist blow on the face of the complainant and then threw his suitcase on his face resulting in bleeding from his nose and falling the front tooth of the complainant.

3. The defence of the accused was that when the sister of the accused was carrying her two years daughter for urinal, the leg of the said daughter touched the complainant and that was the cause of quarrel. There was free fight. The court found that both the stories were probable and in the absence of any independent corroborating evidence, the trial Court acquitted the accused. In para 12 and 13 of the judgment, the court has stated that firstly all the injuries were simple. Tooth of the complainant that was broken and fallen was not produced, nor seized by investigating officer and, there are two parallel stories, hence, benefit of doubt was given to the accused. These were the submissions of the counsel for the defence. All of them were not accepted by the trial Court. The facts remains that the evidence of the complainant did

not inspire confidence and, therefore, the Court has given benefit of doubt to the accused. In the circumstances of the case that benefit was rightly given. Hence no interference is called for. Appeal is dismissed.

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